

Internal Revenue Service, Treasury

§ 20.2204-1

in active service as a member of the Armed Forces of the United States, if the decedent—

(1) Was killed in action while serving in a combat zone, as determined under section 112(c) (2) and (3) (see paragraph (c) of this section), or

(2) Died as a result of wounds, disease, or injury suffered while serving in such a combat zone and while in line of duty, by reason of a hazard to which he was subject as an incident of such service.

(b) Section 112(c)(5) defines the term “induction period” as meaning any period during which individuals are liable for induction, for reasons other than prior deferment, for training and service in the Armed Forces of the United States.

(c) Section 112(c) (2) and (3) provides that service is performed in a combat zone only—

(1) If it is performed in an area which the President of the United States has designated by Executive order for purposes of section 112(c) as an area in which the Armed Forces of the United States are, or have, engaged in combat, and

(2) If it is performed on or after the date designated by the President by Executive order as the date of the commencing of combatant activities in such zone and on or before the date designated by the President by Executive order as the date of termination of combatant activities in such zone.

(d) If the official record of the branch of the Armed Forces of which the decedent was a member at the time of his death states that the decedent was killed in action while serving in a combat zone, or that death resulted from wounds or injuries received or disease contracted while in line of duty in a combat zone, this fact shall, in the absence of evidence establishing to the contrary, be presumed to be established for the purposes of the exemption. Moreover, wounds, injuries or disease suffered while in line of duty will be considered to have been caused by a hazard to which the decedent was subjected as an incident of service as a member of the Armed Forces, unless the hazard which caused the wounds, injuries, or disease was clearly unrelated to such service.

(e) A person was in active service as a member of the Armed Forces of the United States if he was at the time of his death actually serving in such forces. A member of the Armed Forces in active service in a combat zone who thereafter becomes a prisoner of war or missing in action, and occupies such status at death or when the wounds, disease, or injury resulting in death were incurred, is considered for purposes of this section as serving in a combat zone.

(f) The exemption from tax granted by section 2201 does not apply to the basic estate tax as defined in section 2011(d).

§ 20.2202-1 Missionaries in foreign service.

Section 2202 provides that a duly commissioned missionary, dying while in foreign missionary service under a board of foreign missions of a religious denomination in the United States, is presumed to have retained a United States residence (see paragraph (b)(1) of § 20.0-1) held at the time of his commission and departure for foreign service, in the absence of relevant facts other than his intention to remain permanently in such foreign service.

§ 20.2203-1 Definition of executor.

The term *executor* means the executor or administrator of the decedent's estate. However, if there is no executor or administrator appointed, qualified and acting within the United States, the term means any person in actual or constructive possession of any property of the decedent. The term “person in actual or constructive possession of any property of the decedent” includes, among others, the decedent's agents and representatives; safe-deposit companies, warehouse companies, and other custodians of property in this country; brokers holding, as collateral, securities belonging to the decedent; and debtors of the decedent in this country.

§ 20.2204-1 Discharge of executor from personal liability.

(a) *General rule.* The executor of a decedent's estate may make written application to the applicable internal revenue officer with whom the estate

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tax return is required to be filed, as provided in § 20.6091-1, for a determination of the Federal estate tax and for a discharge of personal liability therefrom. Within 9 months after receipt of the application, or if the application is made before the return is filed then within 9 months after the return is filed, the executor will be notified of the amount of the tax and, upon payment thereof, he will be discharged from personal liability for any deficiency in the tax thereafter found to be due. If no such notification is received, the executor is discharged at the end of such 9 month period from personal liability for any deficiency thereafter found to be due. The discharge of the executor from personal liability under this section applies only to him in his personal capacity and to his personal assets. The discharge is not applicable to his liability as executor to the extent of the assets of the estate in his possession or control. Further, the discharge is not to operate as a release of any part of the gross estate from the lien for estate tax for any deficiency that may thereafter be determined to be due.

(b) *Special rule in the case of extension of time for payment of tax.* In addition to the provisions of paragraph (a) of this section, an executor of the estate of a decedent dying after December 31, 1970, may make written application to be discharged from personal liability for the amount of Federal estate tax for which the time for payment has been extended under section 6161, 6163, or 6166. In such a case, the executor will be notified of the amount of bond, if any, to be furnished within 9 months after receipt of the application, or, if the application is made before the return is filed, within 9 months after the return is filed. The amount of any bond required under the provisions of this paragraph shall not exceed the amount of tax the payment of which has been extended. Upon furnishing the bond in the form required under § 301.7101-1 of this chapter (Regulations on Procedure and Administration), or upon receipt of the notification that no bond is required, the executor will be discharged from personal liability for the tax the payment of which has been extended. If no notification is received, the execu-

tor is discharged at the end of such 9 month period from personal liability for the tax the payment of which has been extended.

[T.D. 7238, 37 FR 28720, Dec. 29, 1972, as amended by T.D. 7941, 49 FR 4468, Feb. 7, 1984]

§ 20.2204-2 Discharge of fiduciary other than executor from personal liability.

(a) A fiduciary (not including a fiduciary of the estate of a nonresident decedent, other than the executor, who as a fiduciary holds, or has held at any time since the decedent's death, property transferred to the fiduciary from a decedent dying after December 31, 1970, or his estate, may make written application to the applicable internal revenue officer with whom the estate tax return is required to be filed, as provided in § 20.6091-1, for a determination of the Federal estate tax liability with respect to such property and for a discharge of personal liability therefrom. The application must be accompanied by a copy of the instrument, if any, under which the fiduciary is acting, a description of all the property transferred to the fiduciary from the decedent or his estate, and any other information that would be relevant to a determination of the fiduciary's tax liability.

(b) Upon the discharge of the executor from personal liability under § 20.2204-1, or, if later, within 6 months after the receipt of the application filed by a fiduciary pursuant to the provisions of paragraph (a) of this section, such fiduciary will be notified either (1) of the amount of tax for which it has been determined the fiduciary is liable, or (2) that it has been determined that the fiduciary is not liable for any such tax. The fiduciary will also be notified of the amount of bond, if any, to be furnished for any Federal estate tax for which the time for payment has been extended under section 6161, 6163, or 6166. The amount of any bond required under the provisions of this paragraph shall not exceed the amount of tax the payment of which has been so extended. Upon payment of the amount for which it has been determined the fiduciary is liable, and upon furnishing any bond required under this paragraph in the form specified